

REMARKS

The Examiner has required restriction of the above-identified application as follows:

Group I: Claims 1-16, drawn to a method of etching an article; and

Group II: Claims 17-29, drawn to a biometric membrane.

Applicants have elected, with traverse, Group I: Claims 1-16, drawn to a method of etching an article, for further prosecution.

The Office has characterized the inventions of Groups I and II as process of making and product made. Using this characterization, the Office has opined that the product of Group II can be made by another and materially different process. Applicants submit that the Office is merely stating an opinion; that the Office has provided no evidence of record that the product, as claimed, can be made by another an materially different process; and that the Office, therefore, has not met the burden of proof required to sustain restriction.

Applicants request that the Restriction Requirement be withdrawn.

Finally, Applicants traverse the Restriction Requirement on the grounds that a search of all the claims would not present an undue burden.

MPEP subsection 803 states:

If the search and examination of an entire application can be made without a serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.

Applicants respectfully submit that having to search all the claims would not impose a serious burden on the Office.

Applicants submit this application is now in condition for examination on the merits and early notification of such action is earnestly solicited.

Application No. 10/667,785
Reply to Office Action of September 2, 2005

Customer Number
22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 08/03)

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.
Norman F. Oblon

A handwritten signature in black ink, appearing to read 'Charles J. Andres', is written over a horizontal line.

Charles J. Andres, Ph.D.
Registration No. 57,537